



December 17, 2001

Ms. Cynthia B. Garcia
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2001-5907

Dear Ms. Garcia:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 156256.

The City of Fort Worth received a request for a police report and videotape of an incident that occurred on January 15, 2000. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim.

Pursuant to section 552.301(e)(1), a governmental body is required to submit to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement as to the date on which the written request for information was received by the governmental body or evidence sufficient to establish that date, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. In this case, your letter to our office dated October 10, 2001 indicated that you would send us a brief in support of your position and copies of the requested information; as of today, however, we have received neither the brief nor the documents. Therefore, the requested information is "presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information." Gov't Code § 552.302. While you assert that the responsive information is excepted under section 552.108, you have not demonstrated a compelling reason to withhold any of the information at issue under that provision. *See, e.g.,* Open

Records Decision 586 (1991) (deciding that the need of another governmental body to withhold requested information may provide compelling reason for nondisclosure under section 552.108). Furthermore, because you did not submit the responsive information, we have no basis for finding that it is confidential by law. Consequently, you must release the information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

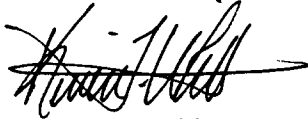
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin J. White", with a long horizontal flourish extending to the right.

Kevin J. White
Assistant Attorney General
Open Records Division

KJW/seg

Ref: ID# 156256

c: Mr. Larry Sheard
7-Eleven, Inc.
2201 North Central Expressway
Richardson, Texas 75080